

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1162 of 2006

Between:

Smt. Mailaram Antamma
Appellant

..

And

The Joint Collector, Medak District
at Sangareddy and others

.. Respondents

J U D G M E N T

Counsel for the appellant : Sri M. Rajamalla
Reddy

Counsel for respondent Nos.1 to 3 : Government
Pleader for

Revenue
Counsel for Respondent No.4 : Sri Patolla Venkat
Reddy

22nd January, 2007

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Per C.V.Nagarjuna Reddy, J

This appeal is directed against order dated 25.08.2006, whereby the learned Single Judge summarily dismissed the writ petition filed by the appellant for quashing order dated 06.04.2006 passed by Joint Collector, Medak in Case No. F3/728/1998-F3/27/ROR/1998.

The facts that are relevant for deciding the issue raised in the appeal are mentioned as under:

The property in dispute i.e. land measuring Ac.03.12 guntas in Survey No.458 of Indrakaran Village, Sangareddy Mandal, Medak District was originally owned by one Alivelu Mangatayamma. After her death, the property devolved on her son, namely, Shri Seetaramaiah. On an application made by Smt. Bovanagari Laxamma, W/o.Kistayya under Section 5(A) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971, the Mandal Revenue Officer, Sangareddy Mandal, Medak District, the 3rd respondent, issued a certificate in Form No.13(B) on 20.9.1994, validating the alleged sale made by Seetaramaiah in favour of the applicant in respect of the property in dispute.

Smt. Bhavunagari Laxamma appears to have executed a

registered gift deed dated 11.10.1994 in favour of the 4th respondent, giving away the disputed property to him.

On coming to know about the issuance of validation certificate by the 3rd respondent in favour of Smt. Bhavunagari Laxamma, the appellant filed an appeal before the Revenue Divisional Officer, the 2nd respondent, for cancellation of the validation certificate. The 2nd respondent, after calling for the report from the 3rd respondent and hearing the appellant and the 4th respondent, passed order dated 2.12.1997 whereby he held that one Mailaram Maisaiah was the protected tenant of the land in dispute and after his death, the appellant, who is his only daughter, is cultivating the land by paying the land revenue. The 2nd respondent also held that the 4th respondent failed to produce sale deeds, which is said to have been executed by Seetaramaiah in favour of his mother, Bhavunagari Laxamma. The 2nd respondent also took cognizance of the tenancy certificate produced by the appellant and cancelled the validation certificate dated 10.9.1994 issued in favour of Smt. Bhavunagari Laxamma and also the pattadar passbooks and title deeds issued in favour of the 4th respondent. The 2nd respondent directed the 3rd respondent to issue fresh pattadar passbook and title deeds in favour of the appellant in respect of the land in dispute. The 4th respondent questioned the aforementioned order by filing a revision petition, which

was allowed by the 1st respondent vide his order dated 06.04.2006.

The appellant challenged the revisional order in Writ Petition No.16641 of 2006. The learned Single Judge did not issue formal notice to the respondents requiring them to file counter-affidavit and summarily dismissed the writ petition by simply perusing the files produced by the learned Assistant Government Pleader for Revenue.

When the writ appeal first came up for admission on 6.11.2006, this Court prima facie expressed the view that the learned Single Judge ought not to have dismissed the writ petition at the threshold, without calling upon the respondents to file counter affidavits indicating their respective stands. Therefore, notice was ordered and the appeal was posted for 11.12.2006 for final disposal. On receipt of notice, the 4th respondent entered appearance and sought for time for filing counter affidavit. Later, he filed counter affidavit.

Shri M.Rajamalla Reddy, learned Counsel for the appellant contended that the order under challenge is liable to be set aside, because the learned Judge failed to consider that the 1st respondent reversed the well-considered order of the 2nd respondent by a cryptic order. Learned counsel submitted that while the 2nd respondent gave detailed reasons for setting aside the validation certificate issued in favour of Bhavunagari Laxamma and cancelling the pattadar passbook and title

deed issued in favour of the 4th respondent, the 1st respondent did not examine the case in a proper perspective and set aside the appellate order without assigning cogent reasons.

Shri Patolla Venkat Reddy, appearing for the 4th respondent contended that unless the appellant obtains ownership certificate under Section 38(E) of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950, he cannot make a legitimate claim over the land in dispute as a protected tenant. He further submitted that the 1st respondent considered the will made by Seetaramaiah in favour of the mother of the 4th respondent and the gift deed executed by her in latter's favour and has rightly come to the conclusion that the validation certificate dated 20.9.1994 issued by the 3rd respondent was legal and proper. He submitted that the learned Single Judge did not commit any error by refusing to entertain the appellant's challenge to order dated 06.04.2006.

The learned Government Pleader for Revenue supported the order under challenge and argued that the appellant does not have any right over the land in dispute and, as such, he cannot challenge the validation certificate issued in favour of the 4th respondent.

We have thoughtfully considered the respective submissions and perused the record. The questions whether Smt. Bhavunagari Laxamma, mother of the 4th respondent purchased the land in dispute from

Seetaramaiah, whether Mailaram Maisaiah, the grandfather of the appellant, was the protected tenant of the land in dispute, whether the order dated 20.09.1994 passed by the 3rd respondent issuing validation certificate in favour of B.Laxmamma was legally valid and which of the two parties, namely, the appellant or the 4th respondent is entitled in law to hold the property in dispute required a detailed examination and adjudication in the writ petition filed by the appellant, but without examining the same, the learned Single Judge dismissed the writ petition. In our considered view, the questions noted above could not be adjudicated without requiring the respondents to file counter to the affidavit of the writ petitioner (the appellant herein) and the learned Single Judge gravely erred by dismissing the writ petition in limini.

A reading of order dated 06.04.2006 passed by the 1st respondent shows that the officer concerned mechanically allowed the revision filed by the 4th respondent, and without going into the issue whether the said order satisfies the requirement of a speaking order, the learned Single Judge dismissed the writ petition.

For the reasons stated above, the appeal is allowed. The order of the learned Single Judge is set aside. The writ petition is admitted. It shall now be listed for fresh adjudication before an appropriate Single Bench as per roster on 26th February, 2007.

The interim order passed by the Division Bench in the writ appeal shall continue till 5th March, 2007.

It is however made clear that any observations made in this order touching upon the merits of the case will have no bearing on the fresh adjudication of the writ petition by the learned Single Judge.

C.V.NAGARJUNA REDDY, J.

22nd January, 2007

G.S.SINGHVI, C.J.

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